

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from the Administrative Law Court

Honorable Ralph King Anderson III, Administrative Law Court

Docket No. 18-ALJ-04-0110-AP

Perry Drake Gilmore Jr., #344879,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

NOTICE OF APPEAL

I hereby give notice that I appeal the final order of Administrative Law Judge Honorable Ralph King Anderson III dated October 4, 2018 (herewith) affirming Respondent's revocation of my earned goodtime credits as the result of a female staff member allegedly observing me masturbate in a bathroom with no door because he found I failed to preserve issue I raised on appeal (that I was judicially protected from being observed by female staff while I am in a bathroom) where, although I had established in the record below I was in a bathroom with no door, I did not say I had a privacy right to not be observed by female staff specifically. Said Judge erred where: (1) There is no binding authority which requires me to preserve issues in "prison disciplinary hearings or grievances" before raising them on appeal in "administrative law court;" The caselaw said Judge cited, Pye v. Estate of Fox, 369 S.C. 555, 564 (2006), requires issues be preserved in only "trial court;" (2) Even if I was required to preserve issues in prison disciplinary hearings or grievances before raising them on appeal in administrative law court "[a] party is not required to use the exact name of a legal doctrine in order to preserve an issue," Herron v. Century BMW, 395 S.C. 461 (2011) HN 6, and "[w]hen an issue is not specifically set out in the statements of issues, an appellate court may nevertheless consider the issue if it is reasonably clear from an appellant's arguments," Id. at HN 8, therefore, when the record showed the staff was female who looked at me twice and I argued I was in a bathroom which did not have a door, that was sufficient to preserve the issue for appeal.

Wherefore, for the foregoing reasons I appeal and ask that this also be construed as a motion to remand.

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SC Court of Appeals

October 29, 2018
Bennettsville, SC

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PROOF OF SERVICE

I certify I this day served copies of Notice of Appeal and Motion and Affidavit to Proceed In forma Pauperis on all parties to this appeal by mail, postage paid.

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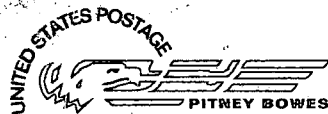
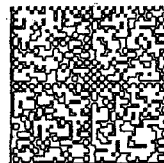
October 29, 2018
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